THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D. APPA RAO

W.P.NO.10209 of 2006

Dated:23-05-2005

Between:

M/s. Tirumala Enterprises, Hyderabad, represented by its Proprietor Sri K. Anjanayelu.

..Petitioner

and

Commercial Tax Officer, Saroornagar Circle, Hyderabad and others.

..Respondents.

ORDER:

(per L. Narasimha Reddy, J)

The petitioner is a contractor, mostly with the Bharat Sanchar Nigam Limited. In respect of the works under taken by it during the assessment year 2001-2002, an order was passed on 31-03-2003 holding that the petitioner is liable to pay a sum of Rs. 4,07,602/-. The amount is said to have been deducted at source. Subsequently, the second respondent revised the assessment by an order dated 03-02-2005 and held that the petitioner is liable to pay a sum of Rs.

17,34,663/-. Aggrieved thereby, the petitioner preferred an appeal before the Sales Tax Appellate Tribunal and an application for stay was filed before the third respondent, as required under the Andhra Pradesh General Sales Tax Act. Through his order, dated 10-02-2000, the third respondent rejected the application. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

The validity or otherwise of the order passed by the second respondent needs to be gone into by hearing of the appeal. As of now, a sum of Rs.4,07,602/- was recovered from the petitioner through the original order of assessment. The petitioner complains that the amount so recovered was not even taken into account by the second respondent while passing the revised order of assessment. If the petitioner is required to pay such huge amount over and above what was recovered from it, it would result in great hardship to it apart from rendering the appeal, nugatory.

Having regard to the facts and circumstances of the case, the Writ Petition is disposed of directing that the order passed by the second respondent shall remain stayed pending disposal of the appeal subject to the condition that the petitioner shall deposit half of the disputed amount within a period of four weeks from today. The amount of Rs.4,07,602/-, which was deducted at source, shall also be taken into account, for this purpose.

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L. NARASIMHA REDDY, J

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D. APPA RAO, J

23rd May, 2006.

Note:

Issue CC tomorrow.

(Bo)

sj/chv